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For the Fiscal Year Ended June 30, 1951

Fiscal Year Ended June 30

1951



# Bureau of Indian Affairs

*Dillon S. Myer, Commissioner*

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FOUR MAJOR DEVELOPMENTS stand out in the wide range of activities carried on by the Bureau of Indian Affairs on behalf of the 400,000 Indians of the continental United States and the 35,000 natives of Alaska during the fiscal year 1951.

The first was the launching of a 10-year special program designed to promote the basic welfare of two especially needy Indian groups—the Navajos and the Hopis. Authorization for such a program was provided by Congress in April 1950, and an appropriation of \$8,645,520 was subsequently made available for the first year of operations.

Because of a delay in appropriations, work was not started on a really significant scale until the last quarter of the calendar year. Throughout the winter and spring, however, substantial progress was achieved in assembling the necessary personnel, drawing up plans, and initiating the work program on a number of different fronts. The program includes such basic developments as the improvement and enlargement of school facilities, construction of roads connecting key points on the Navajo and Hopi Reservations, soil and water conservation and range improvement, relocation of Navajo and Hopi families on irrigated lands of the Colorado River Reservation, completion and extension of existing irrigation projects, and the development of additional employment opportunities for the Navajo and Hopi people both on and off the reservations.

The second major development of the year was a strengthening of the basic organizational structure developed by the Bureau during the previous year to carry on its activities with a maximum of effectiveness and economy. In essence, the organizational pattern was built around three levels of administration: (1) The national office (2) the 11 area offices, and (3) the agencies or other field jurisdictions.

During 1951, the "housekeeping" functions, such as payrolling and vouchering, formerly performed at the agency level, were transferred to the area offices in order to free the agency personnel for more direct operations with individual Indians and Indian groups.

Nevertheless, they resolved not to let the language barrier stand in the way of local self-government. They solved their electoral problem by using the photographs of the contestants for the various offices on the ballot. Here, too, the election committee had to overcome the traditional resistance of the Navajos to having their photographs made, and a few of the pictures had to be omitted. More than 75 percent of the 16,000 registered voters cast ballots at 74 polling places scattered around the vast Navajo Reservation. Some voters traveled as far as 60 miles by wagon and horseback over rugged trails to reach a polling place.

#### ***Planning by Tribal Groups***

The Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Indians in North Dakota, who are faced with the immediate loss of 155,000 acres of their productive bottom lands for the construction of the Garrison Dam and Reservoir, completed plans for the use of the \$7,500,000 made available to them by Public Law 437, Eighty-first Congress. This sum was in addition to an appropriation of \$5,105,625 authorized in the same public law as compensation for the taking of tribal and individual lands. After long consultation among the tribal members, the Tribal Business Council created a revolving loan fund of \$2,500,000 for the rehabilitation of tribal members, authorized a per capita payment of \$1,000 to each tribal member as immediate aid, and established a reserve fund to remain to their credit in the United States Treasury. The council further authorized the use of any part of the \$7,500,000 to pay any tribal member, who requested it, full payment of his pro rata share of tribal assets in return for the relinquishment by the member, his heirs and assigns, of all claims to any future tribal rights, income, and assets.

The Uintah and Ouray (Ute) Indians of Utah, after prolonged study and numerous discussions, evolved a program for the use of some \$17,000,000 awarded them by the United States Court of Claims. This represented 60 percent of a total judgment of \$31,460,216.84 which the Uintah and Ouray Indians shared with their kinsmen of the Ute Mountain and Southern Ute Reservations of Colorado. The Tribal Business Committee of the Uintah and Ouray Reservation, through capable leadership, won the approval of the entire tribe for a program of economic and social development. The plan calls for expenditure of \$5,000,000 over a 3-year period to rehabilitate the tribal economy. Items within the program include the purchase of Indian allotments in heirship status; the purchase of winter range to balance present holdings of summer range lands; the consolidation and blocking out of range lands through purchase and exchange; the subjugation

tion of land; and the establishment of a credit fund for the benefit of the tribal members. The plan also contemplates that all educational facilities on the reservation will be transferred eventually to public school administration.

#### **MANAGEMENT**

The Bureau of Indian Affairs is unique among governmental agencies for the complex variety of activities entailed by its basic function. The Bureau administers many different activities that range in scope from the direct operation of supervising Indian land leases to the involved operation of formulating and implementing broad economic rehabilitation programs for Indian advancement. Aware of the importance of maintaining a high level of management practices in such a setting, the Bureau has acted in accord with Presidential and Secretarial directives to establish a continuing management improvement program.

Particular opportunities for management improvement existing in the Bureau were highlighted in studies of its operations conducted during the past year by the investigative staff of the House Appropriations Committee, Princeton University, and a well known management consultant firm. These studies delineated problem areas and in some cases proposed remedial measures. Some of the measures proposed have been initiated in the Bureau and others are under way.

The Bureau views management improvement as a continuing task, with primary responsibility for its success resting on all administrative personnel. Accordingly, field committees composed of key administrative officers have been established in each of the area offices to assume chief responsibility for the identifications of opportunities for management improvement and to propose specific measures to attain a smoothly functioning administrative mechanism. These proposals are to be geared into area-wide management improvement programs and rapidly scheduled for action. A small staff has also been provided in the central office to give guidance to the management improvement program on a Bureau-wide basis and to render assistance to field organizations when needed.

While several projects have been undertaken during the past year, there are three that are of significant importance to Bureau operations.

The Indian Affairs Manual is well along toward completion. This basic document, established in a formal format, sets forth the objectives, policies, delegations of authority, and detailed procedures for each organizational function. It is written in a manner calculated to relate the authority and responsibilities of each organizational function to each other and to the over-all Bureau program. Aside from its

primary use as a ready reference for specific organizational units, it will serve to acquaint all personnel with the basic structure and over-all operations of the Bureau thereby leading to consistency in application of Bureau policies and procedures. Twenty-eight chapters of this key management tool have been released and others are being processed with priority.

Another important management improvement undertaking of the past year has been a study of the Bureau's reporting system and component reports. This study was begun by a study of central office reports and is to be extended to field organizations. The objectives of this study are to: (a) provide adequate data for program control at successive levels of the organization, (b) consolidate related and similar reports, (c) provide clear, concise, and complete reports, (d) establish a central control of the reporting system, and (e) screen reports on the basis of utility. The results of the study of central office reports are currently being reappraised, and a list of approved reports together with procedures establishing a Reports Control program will be published in the Indian Affairs Manual.

With the inclusion of nine formerly detached field installations within the area organization pattern, the way was cleared for completing the centralization of housekeeping functions in area offices. The primary benefit accruing from this move is an improved level of operation enabling present staff to meet the workloads mandatory to continued operation, whereas, formerly, it was inadequate for the task at hand.

## THE LEGAL RECORD

### Litigation

There were a number of significant court decisions on Indian matters during the year. Among them was *Begay v. Miller*, in which the Arizona Supreme Court held that a divorce in the Navajo Court of Indian Offenses was entitled to recognition by the State despite marriage under State rather than tribal law. In *Tawnah v. Jones*, the Circuit Court of Appeals for the Tenth Circuit, reversing the lower court's decision, held that income from lands allotted under the General Allotment Act is subject to Federal income taxation. Also in the field of Federal income taxation, the Bureau of Internal Revenue reversed a prior ruling to hold taxable the income from Osage oil and gas royalties. An opinion of the Montana Supreme Court in *State v. Pepion* interpreted Federal law to exclude State law and order jurisdiction on non-Indian land within the exterior boundaries of Indian reservations. Potential recoveries in the Court of Claims and Indian Claims Commission on tribal claims were drastically curtailed by a

decision of the United States Supreme Court in *Alcea Band of Tillamooks et al. v. United States*, which held that a Federal taking of lands to which a tribe had original Indian title was not a taking under the Fifth Amendment and therefore payment of interest on the value of the land from the time of taking was not required.

An action on behalf of the natives of the Hyaburg Reservation in Alaska was instituted against Libby, McNeil and Libby to recover damages for unauthorized use of a fishtrap site within reservation boundaries and to restrain future use of the site. Dismissal by the Federal district court of a suit brought at the Department's request to enjoin certain Navajo Indians from trespassing on public lands in Utah was appealed (*United States v. Hosteen Tse-Kesi et al.*); a defense of aboriginal rights is an issue in the case. The *Jimerson* case, discussed in last year's report, to compel the Commissioner to recognize a certain group as the governing body of the Seneca Nation was dismissed. At the year's close, additional information and legal memoranda were transmitted to the Department of Justice in support of an earlier request for legal action to recover possession of certain lands on the Pyramid Lake Reservation in Nevada.

### Legislation

Early in the year responsibility for coordinating the Bureau's large volume of legislative work was centralized in the office of the chief counsel. The office prepared a proposed 1951 legislative program of the Bureau, which covered nearly 50 public bills, initiated a weekly reporting system and additional control procedures to expedite preparation and clearance of bills and reports on pending legislation, and played a large part in the drafting of major program bills, in addition to providing legal review and assistance in formulating final Bureau recommendations on many other bills. At the end of the year, over 100 legislative reports or legislative proposals for submission to the Eighty-second Congress, exclusive of reports on numerous patent-in-fee bills, had been transmitted by the Bureau to the Department.

### Attorney Contract Policy

In November 1950 the Bureau issued a memorandum setting forth policies regarding approval of proposed contracts between attorneys and Indian tribes. Most of the policies itemized represented no substantial departure from those theretofore generally applied by the Bureau, and the primary purpose of the memorandum was to acquaint tribes and attorneys with the criteria being applied. The memoran-

dum was, however, misunderstood and misinterpreted in some quarters and thus became the subject of widespread discussion. In the process there was full opportunity for expression of all points of view regarding the Bureau's policy on attorney contracts. Near the end of the year the Solicitor issued an opinion, at the request of the Secretary, on the extent of the Department's statutory authority to approve or disapprove attorney contracts, which in effect upheld the legal position taken by the Bureau. The drafting of regulations to formalize Departmental attorney contract policy is now contemplated.

Approximately 38 attorney contracts for the prosecution of tribal claims or general counsel services were approved during the year. In view of the impending deadline of August 12, 1951, for the filing of claims with the Indian Claims Commission, instructions were issued to the area offices in January to ascertain which tribes without claims attorneys wished to prosecute claims, to advise them of the need for early filing, and to obtain information on progress of claims of tribes having claims attorneys. At the close of the year 4 claims contracts were under review and the Bureau had information that 10 other claims contracts were in process of negotiation.